

# SENATE BILL REPORT

## ESB 5841

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As Reported By Senate Committee On:  
Labor, Commerce & Trade, January 24, 1996  
Ways & Means, February 6, 1996

**Title:** An act relating to personnel.

**Brief Description:** Enacting the personnel system reform act of 1995.

**Sponsors:** Senators Pelz, Winsley, Gaspard, Roach, Snyder, Loveland, Rinehart, McAuliffe, Spanel, Heavey, Franklin, Bauer, Smith, Fairley, Prentice, Fraser, Kohl, Quigley, Rasmussen, Sutherland, Sheldon, Drew, Wojahn, West, Wood, C. Anderson and Moyer; by request of Governor Lowry.

**Brief History:**

**Committee Activity:** Labor, Commerce & Trade: 2/23/95, 3/1/95 [DP, DNP]; 1/24/96 [DPS].

Ways & Means: 3/3/95, 3/6/95 [DP, DNP]; 2/1/96, 2/6/96 [DP2S, DNP].

Passed Senate, 3/14/95, 30-19.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

**Majority Report:** That Substitute Senate Bill No. 5841 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; Franklin, Fraser and Wojahn.

**Staff:** Jonathan Seib (786-7427)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5841 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Drew, Fraser, Hargrove, Kohl, Pelz, Quigley, Roach, Sheldon, Snyder, Spanel, Strannigan, Sutherland, West, Winsley and Wojahn.

**Minority Report:** Do not pass.

Signed by Senators Cantu, Finkbeiner, Hochstatter, Johnson, McDonald and Moyer.

**Staff:** Denise Graham (786-7715)

## **Background:**

### CIVIL SERVICE

State Civil Service System. The Washington Personnel Resources Board (WPRB), comprising three members appointed by the Governor, sets overall policy for the civil service system as it applies to state employees. The board has some appeals authority, but most state civil service appeals are heard by the Personnel Appeals Board.

The Director of the Department of Personnel (DOP) is responsible for the central administration of the state civil service. The Governor appoints the director, subject to confirmation by the Senate.

Certain employees are exempt from state civil service. A position may be designated exempt either by statute, or by the Washington Personnel Resources Board on the request of the Governor or another elected executive.

The WPRB adopts civil service rules, including rules regarding the classification system. By law, layoffs of state employees are to be made according to seniority. When a vacancy is to be filled, the selection is made from a list of the seven names that scored highest on the eligibility list for the job.

The director of the DOP is authorized to adopt rules for managers. The rules are separate from the board's rules governing other civil service employees and govern all aspects of the employment of managers.

Contracting for Services. Under a 1978 Washington Supreme Court opinion, agencies may not purchase services by contract if the services were customarily and historically performed by civil service employees. However, the Legislature authorized these contracts if the services were regularly purchased prior to 1979. These contracts may not be executed or renewed if it would have the effect of terminating civil service employees or positions existing at the time of the contract extension or renewal.

### COLLECTIVE BARGAINING

Under the state civil service system, classified employees, including employees of institutions of higher education, have the right to collectively bargain with respect to grievance procedures and personnel matters over which the agency or institution may lawfully exercise discretion. Bargaining is limited because the state civil service rules govern most major personnel functions such as recruitment, hiring, discipline, sick leave, vacations and salary schedules.

Agencies or institutions of higher education bargain for an agreement with each bargaining unit of employees in the agency or institution. Bargaining units are determined by the WPRB. Supervisors and nonsupervisors may be in the same unit under certain criteria. The WPRB administers representation elections.

Civil service law does not permit or grant the right to strike. Mediation of disputes is provided by the DOP, and the WPRB conducts impasse arbitration.

To have union security provisions, a majority of employees in the bargaining unit must vote for union security.

Unfair labor practices are specified and complaints are adjudicated by the WPRB.

### **Summary of Second Substitute Bill:**

#### **CIVIL SERVICE**

Contracting for Services. Beginning January 1, 1999, state agencies and institutions of higher education may contract for services provided by employees in classified service. The decision to contract out is not subject to collective bargaining.

Job Classification System. The Washington Resources Personnel Board (WRPB) is directed to begin a study of the job classification system under state civil service. The director of personnel is to begin to implement a new classification by March 15, 1999.

Civil Service Rules. Beginning July 1, 1998, civil services rules are adopted by the director of DOP, instead of the WRPB. The requirement is deleted for the seven names to be considered for vacancies and for making seniority the basis for layoffs.

The director also determines exemptions from civil service, rather than the board.

Civil Service Appeals. On July 1, 2000, the Personnel Appeals Board (PAB) is repealed. The WRPB assumes the appellate functions of the PAB for those employees not covered by a collective bargaining agreement. The board may use hearings officers to conduct appeals.

#### **COLLECTIVE BARGAINING**

Timelines for Negotiations. The Public Employment Relations Commission (PERC) begins the process of preparing for and administering negotiations under the reformed collective bargaining system.

Negotiations under the new law commence no later than October 1, 1998. The new agreements may take effect no earlier than July 1, 1999. Collective bargaining agreements in effect under the civil service law that expire after July 1, 1995, may remain in effect, unless superseded by a new agreement under the new law, until July 1, 1999, or until superseded, whichever is later.

Covered Employees. The new collective bargaining system covers all civil service employees, except (1) managers, (2) those employees covered by another bargaining law, (3) confidential employees, and (4) employees of the Office of Financial Management, the DOP, the Public Employment Relations Commission, the PERC, and the Attorney General's Office.

Negotiation Process. For negotiating collective bargaining agreements, state agencies are represented by the Governor. Institutions of higher education may choose to be represented by their respective governing boards, in consultation with the Office of Financial Management.

Exclusive bargaining representatives must negotiate one master collective bargaining agreement that covers all the bargaining units represented by that exclusive bargaining representative. Exclusive bargaining representatives representing fewer than 500 employees must bargain in a coalition of exclusive bargaining representatives that together represent 500 or more employees.

The Governor submits a request for funds necessary to implement the compensation and fringe benefit provisions in the collective bargaining agreements, and for legislation necessary to implement the agreements, within 10 days of ratification of the agreement or within 10 days after the Legislature next convenes. If the Legislature rejects or fails to act on the submission, the parties may reopen negotiations or the exclusive bargaining representative may seek to implement the impasse resolution procedures provided for under the act.

The terms of a collective bargaining agreement negotiated under the new law remain in effect after expiration of the agreement until a new agreement is negotiated, up to one year. After the one-year period, the employer may unilaterally implement according to law.

Scope of Bargaining. Bargaining is required over wages, hours, and other terms and conditions of employment, with some exceptions. Employers may bargain, but are not required to bargain, over the retirement system and retirement benefits, inherent managerial policy, health care benefits (except the dollar amount expended per employee), and certain civil service rules regarding examinations, appointments to service, job classifications, and affirmative action (other civil service rules may be superseded by the collective bargaining agreement). For institutions of higher education, all civil service rules may be superseded by a collective bargaining agreement.

Bargaining for the number of names to be certified for vacancies, promotional preferences, and the health-care dollar amounts must be conducted in one statewide coalition.

Collective bargaining agreements may not contain provisions that conflict with statute. The agreements prevail over conflicting executive orders, administrative rules, or agency policies.

Collective bargaining agreements must contain grievance procedures and all disciplinary actions or employee terminations must be processed under the procedures of the agreement.

Impasse Resolution/Right to Strike. The bill explicitly does not permit or grant the right to strike.

If the parties fail to reach agreement, either party may request a mediator. If agreement is not reached within 100 days of mediation, a fact-finder is appointed to develop a recommended settlement within 30 days. The recommendations may be made public if an agreement is not reached within 10 days of their receipt by the parties.

Bargaining Units/Representation. Bargaining units existing under the existing civil service collective bargaining law are considered appropriate units unless the unit contains both supervisors and nonsupervisors. The PERC determines appropriate units and unit modifications.

The PERC determines all questions of representation and administers elections.

Union Security. A union security provision requiring the payment of agency shop fees by bargaining unit employees may be bargained. Employees who assert the right of non-association based on religious beliefs may pay the fee to the employee organization for a program within the organization that is in harmony with the employee's conscience. Employee organizations entitled to union security under the civil service law continue to be entitled to union security.

Unfair Labor Practices. Unfair labor practices are enumerated. PERC is directed to prevent unfair labor practices and to adjudicate unfair labor practice complaints.

**Second Substitute Bill Compared to Substitute Bill:** The substance of the second substitute bill is the same as the substitute bill. Changes are made in effective dates, internal references and transition provisions.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Testimony For:** The bill would give the same rights to state employees already enjoyed by most other workers. It would put in place a set of tools that will provide the basis for reinventing government. Full scope collective bargaining exists, and works well, in numerous other states.

**Testimony Against:** The bill does not subject the decision to contract out state services to the collective bargaining process.

**Testified:** PRO: Greg Devereaux, Washington Federation of State Employees; Bill Daley, Office of the Governor; Dennis Karras, Department of Personnel; CON: Eugene St. John, Wayne Gloger, Washington Public Employees Association.